IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 19270 of 1995

Between:

Friends Fisheries (P) Ltd. Rep by Mrs. Sharada S.Amin, W/o. Capt.Sadananda K.Amin, Sahana Sadan,10-183 Visalakshi Nagar, Visakhapatnam.

..... PETITIONER

AND

1 Visakhapatnam Prot Trust, Reptd.by its Chairman, Visakhapatnam.
2 Corporation Bank Head Office at Pandeswar, Mangalore (Padavu) Karnataka State.
3 Civil Judge of Mangalore, D.Kannada Karnataka State.
4 S.Thamizhani 7-8-22/1, Kasturbamarg, Ramakrishna Beach, Visakhapatnam-3.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ or direction preferably writ of Mandamus declaring the sales made by the first respondent of the fishing trawler of the petitioner company which is obtained on loan sanctioned by the second respondent bank having been hypothecated to the bank and also having been made first charged of the fishing vessel issued through impugned order No. K/M&M/20619/94 dt. 17.1.94 of the first respondent as arbitrary capricious without authority of law against the principles of Natural Justice and deprived of the property which is the very life of the business of the petitioner's company and therefore illegal violative of fundamental rights guaranteed to the petitioner company under Act.19(G) and Art.14 and also Art.21 r/w Art.301 and Art.300 (A) of the constitution of India and pass such other and further orders.

Counsel for the Petitioner:MR.KOWTURU VINAYA KUMAR

Counsel for respondent Nos. 1 to 3 : None appeared

Counsel for the Respondent No.4 : MR.V.V.L.N.SARMA

The Court made the following :

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 19270 OF 1995

ORDER:

The petitioner claims to be a private limited firm engaged in the business of fishing, freezing, storage and export of fish and acquired a fishing trawler by availing a loan from the second respondent bank and stationed the said fishing trawler at Visakapatnam Port Trust. The grievance of the petitioner is that due to slackness in the fishing industry, it failed to pay the charges levied by the first respondent Port Trust and requested on several occasions to grant concession. Since the due amount was not paid, the first respondent had auctioned the said fishing trawler and delivered the same to a third party viz., M/s. Thamizani. Questioning the said action the present writ petition is filed on the ground that the first respondent is fully aware of the fact that the said fishing trawler was hypothecated to second respondent and without giving any opportunity the same was auctioned and delivered to third party. It is also stated that the second respondent bank has filed a suit in O.S.No.37 of 1993 on the file of the Civil Judge, Mangalore D.Kannada seeking a direction to pay an amount of Rs.56,38,326-35.

Learned counsel for petitioner submitted that the petitioner is willing to pay the charges levied by the respondent port trust and that he was not afforded reasonable opportunity to pay the same. It is also stated that the first respondent is aware of the fact that the said fishing trawler was hypothecated to second respondent bank and the auction proceedings are illegal and arbitrary. Learned counsel for petitioner further submitted that petitioner wants to file a representation/objections before the first respondent to settle his accounts.

It is to be noted that the present writ petition is filed in the year 1995 and no interim orders were granted and the respondent has not chosen to file any counter affidavit. In the circumstances, it would suffice to dispose of the writ petition with the following direction:

The petitioner herein is permitted to file a representation/objections with regard to auction and settlement of his accounts and on filing any such representation/objections, the first respondent is directed to consider the same and settle the account of the petitioner in accordance with law.

Accordingly, the writ petition is disposed of. No costs.

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N.V.RAMANA,J

13-10-2004

TVK

To

1 The Chairman, Visakhapatnam Prot Trust,
Visakhapatnam.
2 Corporation Bank Head Office at Pandeswar, Mangalore
(Padavu) Karnataka State.
3 Civil Judge of Mangalore, D.Kannada
Karnataka State.

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